

Now, the Court has thus proclaimed itself the sole arbiter of our Nation's moral standards, and in the course of discharging that awesome responsibility, purports to take guidance from the views of foreign courts and legislatures. Because I do not believe that the meaning of our eighth amendment, any more than the meaning of other provisions of our Constitution should be determined by the subjective views of five members of this Court and like-minded foreigners, I dissent.

This is Justice Scalia.

Similarly, in *Roper*, Justice O'Connor called on the Court to substitute basically its own moral judgment for "the judgment of the nations' legislatures."

The majority, however, persists in imposing its will on the States and backs its decision up by citing the mandates of foreign legislatures.

The usurpation of the voice of the people began roughly with *New York v. Lochner*, and the word *Lochnerization* has since been used to describe cases in which the judiciary overrides the democratic law-making authority and imposes its own morality, or in some cases lack of morality, on the people.

*Lochner* was a 1905 case that has since been overruled; but in this case, the Supreme Court told the New York legislature it could not regulate certain items.

So this usurpation continued with *Roe v. Wade* and again most recently in *Lawrence v. Texas*.

Now, as the gentleman from Iowa (Mr. KING) had mentioned, there was a very nice lunch today. And the Supreme Court was very gracious in reaching out and having members of the Committee on the Judiciary. There were Senators. There were some of us from the House Committee on the Judiciary. There was a few staff members. And we heard from Justice Stevens, Justice O'Connor, Justice Breyer, Justice Kennedy and Justice Souter.

I would say those are very, very hard-working, well-meaning Justices. But good intentions are not enough. We know from history itself when we think about the words "this means peace in our time," Chamberlain had the best of intentions. He meant well. He thought he was doing what was best for the world, and what he was doing was giving homage and helping a tyrant like Hitler. And so good intentions simply are not enough.

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That oath must be upheld. So that is why I do take issue with the rationale in these cases. These are fine judges, but they have gone astray when they venture out beyond their oath and neglect that from which they have sworn to uphold.

If I might, one of the most frustrating things in this body has been the way people can play fast and loose with what is real, absolute truth. The Constitution is truth. The Constitution does not change. It should not just go

flittering here and there, depending on the whims of the Court.

Just like I heard prior to us coming in, the prior presentation about Social Security, and I could not help but note when there was talk of, well, in 2017 these old Republicans, they are talking about it is going bankrupt, and that is just all a facade of sorts, basically paraphrasing. Then the words were said, but it is actually in 2017 when there is more cash going out than comes in. We fall back on these trillions of dollars that are in cash bonds that will continue to earn interest. Cash sounds like there is cash there. There is nothing there. There are IOUs. There are Federal IOUs, and to say they will continue to draw interest, they stick more IOUs in there and say there is your interest. That is just so disingenuous. It is so misleading, and even though I really believe those people saying those things have the best of intentions, they are doing great harm to the Nation by misleading.

In the same way, the Court has the best of intentions. They mean well. They think they are doing this great service. They go to the different seminars and they speak in different places, and they hear these different things from other people who maybe look down on our laws for this or our laws for that. That has nothing to do with our Constitution.

I really appreciate the gentleman from Texas (Mr. POE) yielding to me to say some of these things that are so overwhelming in my heart and soul, as I look to the days ahead. I know they trouble my colleague greatly and I know that both of us came from the same school, if you are going to legislate, by golly, take off the robe, come off the bench, run for the legislature and if, God willing, you get elected, then you can come legislate. I agreed with you on that. We did the same thing. We are here, and hopefully America will help bring the justices back to reality, and the reality is they took an oath to support and defend the Constitution.

So I appreciate that time, and let me just say, there has been a lot of misleading information saying that some people, by their comments, they are doing great harm and inciting violence. I tell you what, as a judge I know you were tough and I was, too. Anybody that threatens, attempts to use force, attempts to use violence of any kind, they need to go to prison when it comes to our courts.

That is why we are pushing the bill to make the sentences even tougher for anybody that is involved in that, but by golly, our Constitution promised us that First Amendment right to freedom of speech. Neither the Supreme Court nor anybody else should restrict what the Constitution and the Bill of Rights has granted to us. God willing, they will not and America will not let them do it in a nonviolent way.

I thank the gentleman for yielding.

Mr. POE. Mr. Speaker, I want to thank the gentleman from Texas (Mr.

GOHMERT) for his kind words and for his insight into this important issue.

Mr. Speaker, as most Americans go about being concerned about jobs, Social Security, the environment, health care, crime, outsourcing, all of those things are important. Many of those issues will eventually end up in our courts. Some of those cases will find their way to the Supreme Court, and while this issue is somewhat complex, it is not that difficult to understand.

The Constitution is the Bible for our democracy. Words mean something, Mr. Speaker, and the words of the Constitution are words that we must live by, that we must stand by and that we must defend.

I hope that most Americans, regardless of who they are, what their political beliefs are, understand that our Constitution came about because of sacrifices of Americans, many of whom we will never know the names of, that fought first in the War of Independence and numerous wars after that, because we are a unique land, Mr. Speaker. We are a unique people, Mr. Speaker, and the pinnacle of our uniqueness is the Constitution of the United States.

Every public official in this country, school board members, police officers, city councilmen, firefighters, members of the State legislatures, judges throughout our entire Nation and Members of this body took an oath to uphold and defend the Constitution of the United States. That is who our oath and our allegiance is made to, and all we are asking, Mr. Speaker, is that the Supreme Court come back home, follow their oath, be beholden to the United States Constitution and not to foreign countries.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LARSON of Connecticut (at the request of Ms. PELOSI) for today and the balance of the week on account of a family medical emergency.

Ms. MILLENDER-McDONALD (at the request of Ms. PELOSI) for today and May 11 on account of a death in the family.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mrs. MCCARTHY, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

(The following Members (at the request of Ms. ROS-LEHTINEN) to revise

and extend their remarks and include extraneous material.)

Ms. ROS-LEHTINEN, for 5 minutes, today and May 11 and 12.

Ms. FOXX, for 5 minutes, May 11.

Mr. GUTKNECHT, for 5 minutes, May 16 and 17.

Mr. GINGREY, for 5 minutes, May 11.

Mr. OSBORNE, for 5 minutes, May 11.

Mr. BURTON of Indiana, for 5 minutes, today and May 11 and 12.

Mr. PRICE of Georgia, for 5 minutes, May 11 and 12.

Mr. MCHENRY, for 5 minutes, May 11, 12, and 13.

Mr. JONES of North Carolina, for 5 minutes, today and May 11 and 12.

#### SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 148. An act to establish a United States Boxing Commission to administer the Act, and for other purposes; to the Committee on Education and the Workforce; in addition to the Committee on Energy and Commerce for a period to the subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

#### ADJOURNMENT

Mr. POE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 52 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 11, 2005, at 10 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1911. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Asian Longhorned Beetle; Removal of Regulated Areas [Docket No. 05-011-1] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1912. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — West Indian Fruit Fly; Regulated Articles [Docket No. 04-127-1] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1913. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Tuberculosis in Cattle and Bison; State and Zone Designations; California [Docket No. 05-010-1] received April 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1914. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Commuted Traveltime [Docket No. 04-108-1] received April 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1915. A letter from the Regulatory Contact, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting the Department's final rule — Export Inspection and Weighing Waiver for High Quality Specialty Grains Transported in Containers (RIN: 0580-AA87) received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1916. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule — Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2005-2006 Marketing Year [Docket No. FV05-985-1 FR] received March 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1917. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule — Fluid Milk Promotion Order [Docket No. DA-04-04] received March 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1918. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule — Beef Promotion and Research; Reapportionment [Docket No. LS-04-09] received March 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1919. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Tobacco Transition Payment Program (RIN: 0560-AH30) received April 7, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1920. A letter from the Acting Chairman, Nuclear Regulatory Commission, transmitting in accordance with the provisions of Section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017), Section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and Section 108 of the Inspector General Act of 1988 (31 U.S.C. 105(a)(25)), proposed legislation which authorizes appropriations for FY 2006; to the Committee on Energy and Commerce.

1921. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan (Transmittal No. DDTC 096-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1922. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Iraq (Transmittal No. DDTC 001-05), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1923. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

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1931. A letter from the Director of Government Affairs, National Endowment for the Arts, transmitting a report documenting the Endowment's FY 2004 usage of Category Rating Human Resource flexibility, pursuant to 5 U.S.C. 3319(d); to the Committee on Government Reform.

1932. A letter from the Chief Executive Officer, Neighborhood Reinvestment Corporation, transmitting the FY 2004 Annual Program Performance Report, prepared in accordance with the provisions of The Government Performance and Results Act of 1993; to the Committee on Government Reform.

1933. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Upper Mississippi River, Fort Madison, Iowa [CGD08-05-018] (RIN: 1625-AA09) received May 5, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1934. A letter from the Deputy Assistant Counsel, Department of Transportation, transmitting the Department's final rule — Use of Locomotive Horns at Highway-Rail Grade Crossings [Docket No. FRA-1999-6439, Notice No. 16] (RIN: 2130-AA71) received April 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1935. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Frivolous Arguments regarding Waiver of Social Security Benefits Used to Avoid Tax (Rev. Rul. 2005-17) received March 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1936. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2005-23) received March 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1937. A letter from the Acting Chief, Regulations and Publications Branch, Internal Revenue Service, transmitting the Service's final rule — Time and Manner of Making Section 163(d)(4)(B) Election to Treat Qualified Dividend Income as Investment Income [TD 9191] (RIN: 1545-BD16) received March 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows: